

**WAGSTAFF LAW FIRM**

Sommer D. Luther, CO 35053  
940 Lincoln Street  
Denver, CO 80203  
Tel: (720) 208-9417  
Fax: (303) 376-6361  
sluther@wagstafflawfirm.com

*Attorney for Plaintiff*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.  
PASSENGER SEXUAL ASSAULT  
LITIGATION

Case No. 3:23-md-03084-CRB

Honorable Charles R. Breyer

**PLAINTIFFS' RESPONSE TO UBER'S  
MOTION TO DISMISS CASES FOR  
FAILURE TO COMPLY WITH PTO 10**

This Document Relates to:

*S.H. v. Uber Technologies, Inc., et al.*  
No. 3:24-cv-09068-CRB

Date: October 3, 2025

Time: 10:00 a.m.

Courtroom: 6 – 17<sup>th</sup> Floor

**I. INTRODUCTION**

On August 22, 2025, Defendants filed a Motion to Dismiss cases of Plaintiffs who did not file a Plaintiff Fact Sheet (“PFS”) in connection with Pretrial Order (“PTO”) 10. (Doc. 3493). Counsel acknowledges and understands that under PTO 10, the Court has created procedures and deadlines to produce a PFS. Counsel has and continues to diligently comply with discovery obligations.

**II. ARGUMENT**

***a. Plaintiff S.H. has complied with PTO 10.***

On August 22, 2025, Defendants filed a Motion to Dismiss cases of Plaintiffs who allegedly failed to file a Plaintiff Fact Sheet (“PFS”) in connection with Pretrial Order (“PTO”) 10. (Doc. 3493). Plaintiff

1 S.H., however, has complied with the Court's directives. Specifically, Plaintiff's completed PFS was  
2 produced to Defendants on February 21, 2025 through the MDL Centrality portal, in accordance with  
3 the procedures established by PTO 10.

4 Because Plaintiff's PFS was timely submitted and discovery obligations satisfied, inclusion of  
5 Plaintiff in Defendants' Motion to Dismiss was improper. Plaintiff is not subject to dismissal under PTO  
6 10, as there is no outstanding deficiency with respect to Plaintiff's obligations.

7  
8 ***b. Defendants failed to comply with L.R. 37-1 before filing their motion.***

9 Civil Local Rule 37-1 requires parties to meet and confer in good faith prior to filing any motion  
10 regarding alleged discovery disputes. This requirement exists to prevent unnecessary motion practice  
11 and to allow the parties to resolve issues without burdening the Court.

12 Defendants did not meet and confer with Plaintiff's counsel prior to filing their Motion to Dismiss.  
13 Had they done so, it would have been clear that Plaintiff's PFS was produced months earlier, on February  
14 21, 2025, and that Plaintiff had indeed complied with PTO 10. Defendants' failure to engage in the  
15 required good-faith conference underscores the impropriety of their Motion as it pertains to Plaintiff.

16  
17 ***c. Post-Filing Communications Confirm Defendants' Error***

18 After the Motion to Dismiss was filed on August 22, 2025, Plaintiff's counsel promptly reached  
19 out to Defendants by email on August 25, 2025, to inform them that Plaintiff S.H. should not have been  
20 included in the Motion. On August 27, 2025, defense counsel responded by email and confirmed that  
21 Plaintiff would be removed from the Motion to Dismiss.

22  
23 This exchange further demonstrates that Plaintiff was compliant with PTO 10, and that Defendants'  
24 Motion, as it relates to Plaintiff, was filed in error and without adherence to the Local Rules requiring a  
25 pre-filing meet and confer.

26 **CONCLUSION**

27 Because Plaintiff timely complied with PTO 10, Defendants failed to comply with L.R. 37-1 before  
28

1 seeking relief, and Defendants have since acknowledged by email that Plaintiff should not have been  
2 included in the Motion, dismissal of Plaintiff's case is not justified.

3 For the foregoing reasons, Plaintiff respectfully requests that the Court DENY Defendants' Motion  
4 to Dismiss of Plaintiff S.H.  
5

6  
7 Dated: September 5, 2025

Respectfully submitted,

8 /s/ Sommer D. Luther  
9 **WAGSTAFF LAW FIRM**  
10 Sommer D. Luther, CO 35053  
11 940 Lincoln Street  
12 Denver, CO 80203  
13 Tel: (720) 208-9417  
14 Fax: (303) 376-6361  
15 sluther@wagstafflawfirm.com  
16 *Attorney for Plaintiff*  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

I, the undersigned, declare: I am a citizen of the United States, over 18 years of age and not a party to the within action. My business mailing address is 940 Lincoln Street, Denver, CO 80203.

On the date specified below, I served a copy of the foregoing document described as:

**PLAINTIFFS' RESPONSE TO UBER'S MOTION TO DISMISS CASES FOR FAILURE TO COMPLY WITH PTO 10**

To be served by providing a true copy thereof addressed to each of the persons named below:

**O'MELVENY & MYERS, LLP**

400 South Hope Street  
Suite 1900  
Los Angeles, CA 90071  
Telephone: (310) 553-6700

**SABRINA STRONG**

sstrong@omm.com

**JONATHAN SCHNELLER**

jschneller@omm.com

**JOSHUA REVESZ**

jrevesz@omm.com

**LOUIS FISHER**

lfisher@omm.com

**KIRKLAND & ELLIS, LLP**

601 Lexington Avenue New York, NY 10022  
Telephone: (212) 446-4800

**ALLI BROWN**

alli.brown@kirkland.com

**CHRIS COX**

christopher.cox@kirkland.com

**JESSICA DAVIDSON**

jessica.davidson@kirkland.com

**JENNIFER LEVY**

jlevy@kirkland.com

**RUPAL JOSHI**

rupal.joshi@kirkland.com

**SHOOK, HARDY & BACON LLP**

1 Rockefeller Plaza, Suite 2801 New York, NY 10020  
Telephone: (212) 989-8844  
UberMDLService@listserv.shb.com

**PATRICK OOT**

oot@shb.com

**ALYCIA A. DEGEN**

adegen@shb.com

1 **MICHAEL B. SHORTNACY**  
mshortnacy@shb.com  
2 **CHRISTOPHER C. COTTON**  
ccotton@shb.com  
3

4 *Attorneys for Defendants – UBER TECHNOLOGIES, INC., RASIER LLC, and RASIER-CA, LLC*

5 **[X] BY ELECTRONIC TRANSMISSION ONLY:** By emailing the document(s) to the persons at  
the email address(es) listed above. No electronic message or other indication that the transmission  
6 was unsuccessful was received within a reasonable time after the transmission.

7 I declare under penalty of perjury under the laws of the State of California that the above is true and  
correct.  
8

9 Executed September 5, 2025 in Denver, Colorado.

10  
11 /s/ Theresa Fryan

12 Theresa Fryan  
13 Paralegal  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28